

Appl. 09/120,383
Atty. Dkt. No. 67242/107

Remarks

Applicants affirm their response to the restriction requirement and make their election of species. Specifically, in the restriction requirement dated August 24, 2004, the Examiner required restriction under 35 U.S.C. § 121 between

- I. Claims 26-32, drawn to compounds, classified in class 562, subclass 405+.
- II. Claim 32, drawn to method of use, classified in class 514, subclass 562.


Applicants provisionally elected to prosecute Group I, claims 26-31, drawn to compounds classified in class 562, subclass 405+, with traverse. In addition, for the election of species, Applicants provisionally elect example 44 (Ia) (page 43) with traverse. It is respectfully submitted that the evidence and explanation fail to establish a serious burden, which is required to maintain a restriction requirement.

Nevertheless, if the restriction/election of species requirements were to be maintained, then Applicants respectfully request the Examiner to expand the scope of his search beyond the elected species to include the entire claimed genus and to rejoin withdrawn claims if allowed.

The Examiner may contact Sean A. Passino (45,943) at 202-295-4166 if any matters may be resolved via a telephone conference. An action on the merits is awaited.

Respectfully submitted,

Date 10-28-2004

By  (45,943)
702

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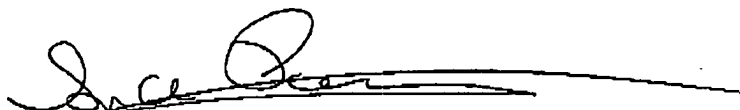
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Should additional fees be necessary in connection with the filing of this paper, or a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-01 for any such fees, and applicants hereby petition for any needed extension of time.

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I hereby certify that the attached paper, " RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT," (7 pages) is being transmitted by facsimile to the U.S. Patent and Trademark Office on the above-identified date.



Sean A. Passino (45,943)

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